

Transforming the Southern Border: Providing Security & Prosperity in the Post-9/11 World Conclusions and Recommendations

Ten years ago, the late Congresswoman Barbara Jordon, who chaired the bipartisan Commission on Immigration Reform, noted in her first report to Congress that a credible immigration and border policy can be measured by a simple yardstick:

People who should get in, do get in.
People who should not get in, are kept out; and,
People who are judged deportable, are required to leave.²⁵⁷

Using this measurement, our current system deserves a failing grade. Given the various obstacles to the legal flow of goods and people across our borders, the relative ease of illegal entry, and the mounting inability to keep detained deportable illegal immigrants once they are caught, it is apparent that our current border and immigration policy needs to change to be a credible deterrent to terrorists.



²⁵⁷ U.S. Commission on Immigration Reform, *First Interim Report: Immigration Policy: Restoring Credibility*, (Washington, D.C., September 30, 1994).

Approximately 400 million people annually cross our land borders at legal ports of entry. In addition every year another 150,000 to 600,000 enter illegally without inspections across America's thousands of miles of land borders. The challenge for our country, as noted by the 9/11 Commission, "in an age of terrorism is to prevent the very few people who may pose overwhelming risks from entering or remaining in the United States undetected."²⁵⁸

The following are recommendations to return credible deterrence to the Southern Border of the United States.

Border Infrastructure

Any investment in infrastructure enhances the ability to effectively screen for terrorists and criminals and furthers the ability to move goods, services and people across the border. For decades there has been inadequate infrastructure at Southern Border ports-of-entry. Poor infrastructure has repeatedly forced frontline CBP officials at the ports-of-entry to almost make daily choices between favoring either national security or the U.S. economy. There is no need for this dilemma if proper funding is made available to truly modernize our ports-of-entry's infrastructures.

The Administration and Congress must recognize the importance of modern land ports-of-entry to national security as well as the U.S. economy, and should therefore develop an aggressive strategy to expand and improve their infrastructure. Specifically, we recommend:

1. The Administration should conduct a thorough infrastructure assessment that looks at both the security vulnerabilities and the economic demands on the land borders. The Administration should conduct a national land border security vulnerability assessment as soon as practicable and advise Congress on the costs required to build a truly modern and secure land border system. In doing so, existing ports-of-entry should be studied to determine how improvements can be made to facilitate a more orderly flow of traffic.

2. The Department of Homeland Security must work and coordinate with state's Departments of Transportation to ensure adequate road infrastructure around ports-of-entry as well as from ports to major highways.

3. In the interim, while this study is being conducted, a \$1 billion dollar Border Infrastructure Improvement Fund should be established and funded to start the border modernization effort. This is a down-payment toward resolving long-standing border problems and enhanced security concerns and should be immediately spent on eliminating the backlog of long-standing problems previously identified and in expanding ports-of-entry. These expenditures must be coordinated with state and local communities in order to ensure their effectiveness.

²⁵⁸ *Op. cit.*, 9/11 Commission Report, p. 383.

4. The Administration should expand pre-clearance programs, including SENTRI and FAST to all major southern ports-of-entry. Access lanes should be expanded to facilitate the free flow of traffic and rapid inspection of those who have been pre-cleared. The Administration should ensure that sufficient funds are dedicated for regular upgrade and maintenance of SENTRI and FAST systems.

Border Staffing

To better protect America from terrorism, while maintaining the important economic vitality of the border, we must identify the personnel level necessary to staff our myriad of consular, interdiction, enforcement, prosecutorial, judicial, and detention agencies. Specifically we recommend:

1. The Administration should immediately develop and implement a comprehensive national border staffing strategy that will allow DHS and other agencies to effectively deploy its personnel (inspectors, Border Patrol agents, special agents and support staff) based on a national threat and vulnerability assessment to prioritize the threats facing our land borders and areas between our ports-of-entry.

2. In the interim, the Administration needs to immediately double the number of CBP personnel; increase Border Patrol agents by at least 3,000; increase the number of ICE special agents by at least 225; increase the number of DRO employees by 541, and increase the staff for the U.S. Consulate General staff in Mexico by 25%. In addition, the Administration needs to increase the support personnel for the various border agencies by at least 25%, with complementary staffing increases made for judicial and prosecutorial offices.

Technology Improvements

A layered approach to border security necessarily involves a variety of monitoring and detection technologies. Yet DHS has failed to consistently and evenly deploy technology along our Southern Border and at the ports-of-entry. In fact, hundreds of miles of our border go unmonitored by personnel or technology every day, despite the fact that technology currently exists to close this gap to terrorists and illicit cargo. There is no comprehensive plan to implement new technologies along the border to assist the border agencies in their important tasks of defending our borders and promoting commerce.

To remedy this deficiency, we recommend that:

1. DHS should immediately develop a detailed technology deployment plan to ensure every mile of the border is monitored 24 hours a day, seven days a week. Once a plan is developed, the Administration should commit sufficient funding to allow CBP to deploy the necessary devices at all the ports-of-entry. This plan should include, but is not limited to:

- Assessing the success of existing technologies to determine if one technology is better than another or whether there is a way to combine the capabilities of various detection devices into one;
- requiring the Border Patrol to work with the Science and Technology Directorate to analyze high-altitude monitoring technologies [UAVs, Tethered Aerostat Radar System (TARS)] for use with land-based monitoring technologies;
- accelerating deployment of radiation portal monitors to all ports-of-entry;
- expanding the number of K-9 units by 20% the number of K-9 units assigned to Southern Border ports-of-entry, and outline a plan to add more bomb-detection dogs as part of the layered approach to border security.

2. The Administration must also commit sufficient funding to CBP to fully deploy the detection technologies identified by the comprehensive plan so that we can ensure no terrorist weapon enters the United States. As a down-payment toward that goal, DHS needs immediately commit at least \$49 million to fully deploy portal monitors at the Southern Border and an additional \$200 million to deploy additional remote video surveillance systems between the Southern Border ports-of-entry by the end of this year.

Improved Intelligence

Intelligence is a critical tool in the arsenal used by our border agencies to combat potential terrorists from crossing the border. Currently, intelligence is not being used effectively on the Southern Border. CBP inspectors, Border Patrol agents and ICE special agents, complained about the utility of the intelligence information currently received. It is neither enough nor timely. Unless it is improved, they can not be expected to accurately and efficiently “connect the dots” and identify the terrorist threat on the Southern Border in a timely manner. Specifically, we recommend:

1. Consistent with the recommendations of the 9/11 Commission, the Administration must build an integrated, interoperable entry-exit system in a timely manner that links the databases of and allows for complete information sharing between each pillar of our border security and immigration control system: consular offices abroad, federal law enforcement, customs and border security agencies, and transportation agencies. As part of this system, it is imperative that the following occur:

- The IDENT/IAFIS integration process should proceed expeditiously as a national priority to avoid additional Resendez and Batres-type atrocities.
- Secondary inspection databases should be made interoperable immediately, thereby moving from the cumbersome eight-database system to a single consolidated system.

- This system should also interface with IBIS as an indicator to the first line officers for further examination of travelers.
2. There must be a coordinated federal approach for a uniform set of standards for all state driver's licenses and official identification cards to significantly reduce unauthorized persons from entering the United States by using fraudulent documents. In the interim, additional and re-occurring training for inspectors on detecting fraudulent documents should be required. Every port-of-entry should be provided a scanning system to interface with the DHS National Document Lab, whereby any questionable travel documents would be reviewed by highly trained document specialists for validity and authenticity. There must be certainty of consequences for violators apprehended with fraudulent documents.
 3. When threat levels are raised, border officials must be provided greater guidance on the specific threat to the Southern Border and the additional security procedures that need to be implemented.
 4. All ICE special agents and national security analytical support staff should receive Top Secret clearances. Newly trained ICE special agents should be processed for Top Secret clearances, similar to FBI and Secret Service special agents, at the completion of basic training. Current ICE special agents in the field offices should have clearances up-graded during mandatory five-year background reviews.
 5. Better coordination and cooperation is needed among border agencies to maximize intelligence driven operations and avoid duplicative intelligence functions. The Undersecretary for Border and Transportation Security should develop a strategy for intelligence collection, analysis and distribution, rationalize various collection and analytical units in the Directorate, and ensure that these units are fully coordinated with DHS' intelligence analysis officers.

US-VISIT

The Administration has an important responsibility to implement an effective interoperable entry-exit system such as US-VISIT. In doing so, the Administration must prepare the border community and ports-of-entry for its implementation. We recommend that:

1. The Administration needs to be more open with the border communities and initiate an immediate outreach program to them to discuss the proposal for US-VISIT implementation and provide community leaders the opportunity to fully participate in the planning and implementation process.
2. To prepare the ports-of-entry for US-VISIT, the Administration needs to expand or restructure inspection areas; fully staff ports-of-entry; identify technology to provide a secure and expedited inspection process; and expand highways and access roads necessary to implement US-VISIT. US-VISIT budget submissions must contain specific information on these necessary expansions to ensure that technology is not implemented until the staff and infrastructure are in place to support it.

Federally-owned and tribal lands

It is critical that the Department of Homeland Security coordinate plans and carry out missions with Department of Interior, Department of Agriculture and Tribal Nations. To improve security on federal and tribal lands, the Administration should:

1. Require the Department of Homeland Security to produce a comprehensive border security plan that takes into account the needs and missions of each agency that has a stake in border security, including land management agencies and tribal nations. See Finding 10, discussing the recommendation for a comprehensive plan.
2. Prior to the comprehensive border security plan being drafted, implement a mechanism to allow the Department of Interior, including tribal nations, to receive Department of Homeland Security funding for border security related projects. After the comprehensive plan is implemented, DHS entities should properly be responsible for directly funding border related projects on federal lands.
3. Prior to the comprehensive border security plan being drafted, the Department of Homeland Security should designate coordinators for the Northern and Southern Borders. These coordinators would be responsible for coordinating all federal security activities along the border, including both at and between the land border ports-of-entry. The Northern and Southern Border Coordinator positions would have the effect of expanding the ABC Initiative to the entire Northern and Southern Borders. These positions should be continued after the comprehensive plan is implemented to continue to monitor and address the changing circumstances and needs of each participating agency.
4. Create an Office of Tribal Security within the Department of Homeland Security, reporting directly to the Secretary, for coordinating DHS efforts with Sovereign Indian Nations. Along the Southern Border, there are 32 separate Indian Nations adjoining or within 50 miles of the border. Along the Northern Border, there are 20 such Nations.

Detention and Removal Operation

The “catch and release” cycle must be broken. For the United States to have a coherent border security strategy, there must be some consequence for trying to illegally enter our country. Due to increased apprehensions and security concerns, detention facilities need to be built or expanded to meet the need for additional bed space. Penalties need to be enhanced and resources need to be provided to the Department of Justice to prosecute and imprison those illegal immigrants who routinely flaunt our immigration laws by repeatedly crossing the borders illegally. Specifically we recommend:

1. A comprehensive assessment needs to be completed to determine the amount of additional detention space and resources required to detain all persons presenting a possible threat to homeland security. In conducting this assessment, it is important to assess the needs of all of the agencies involved in the detention and removal operation, including immigration judges, prosecutors, detention guards, deportation and removal specialists and support staff.

2. In the interim, DRO should immediately be funded to adequately support the current average daily bed occupancy rate of 22,500 from the 19,444 funded levels. This will allow the DRO to continue to fund needed infrastructure improvements such as fleet repair, equipment needs, and training, routinely cut by bed space overages. This will also provide for additional apprehensions reasonably expected to result from ongoing enforcement actions such as the ABC initiative.

3. DHS needs to increase support for innovative programs that can reduce the current shortage of DRO bed space. This includes, but is not limited to, current programs to alternative means of detention such as electronic monitoring, telephonic voice recognition programs for those on bond, and conducting deportation proceedings prior to prisoners' release from federal, state, and local prisons.

4. The Administration needs to encourage other countries to expedite their acceptance of their nationals caught illegally entering the United States. This should be a priority for negotiations on foreign assistance and trade agreements with these countries. If countries will not take back their nationals caught illegally entering our country, then the State Department should decline to issue visas for their nationals seeking to enter our country.

5. DHS should consider placing Detention and Removal Operations within Customs and Border Protection. This allows the primary apprehension agency, Border Patrol, and the detention agency, Detention and Removal Operations, to better coordinate apprehension resources and initiatives with detention resources.

“One Face at the Border”

The merger of border agencies under CBP has the promise to streamline inspections in a more effective and coordinated agency. The single agency can also more efficiently share information than when the agencies were separated between three cabinet offices: Department of Justice, the Department of Treasury, and the Department of Agriculture. Merging the agencies under common leadership is a positive step toward closing the border security gaps. However, the implementation of “One Face at the Border” has created an undue burden on inspectors at U.S. ports-of-entry. CBP officers are required to master far too many laws, rules and regulations to perform their job adequately. The new cadre of CBP officers will become “generalists,” lacking essential language skills and knowledge of specific immigration regulations, trade facilitation processing, or false document detection. The result raises serious security and management concerns for the future, as the current skill set in CBP decays due to natural attrition.

We recommend that:

1. The Department of Homeland Security create new positions in CBP that recognize the intricacies and wealth of knowledge needed to adequately perform the L-INS and L-USCS missions. CBP has already acknowledged the uniqueness of the CBP Agriculture Specialist. Similar positions should be created which recognize the specialty areas of immigration and trade facilitation and, if appropriate, create separate CBP Customs and Immigration Specialist positions.

2. CBP officers on the Southern Border be required to attend and pass a training course in Spanish prior to being assigned to the border, and that salaries be adjusted to reflect this additional requirement.

3. A study be conducted on the merging of L-INS and L-USCS training classes. This study should focus on the content of the curriculum to determine the levels that topics were expanded, reduced or eliminated; and the ability of trainees to adequately perform all aspects of immigration and trade facilitation.

Comprehensive Border Strategy

A comprehensive, government-wide strategy to secure U.S. borders that addresses the long-term economic, immigration and security issues is long overdue.

Such a strategy must involve all of the various government agencies involved in border issues, such as the Commerce Department, Government Services Administration, Transportation Department, Central Intelligence Agency, Justice Department, State Department and Defense Department and not just DHS.

Such a policy cannot be designed by the federal government without the inclusion of other non-federal governmental stake-holders, including state and local governments, border communities, and industry, trade, union and tourist groups. It also needs to include representatives from NAFTA partners Canada and Mexico. All of these organizations will be impacted on a daily basis by any border strategy, and can play significant roles in its successful design and implementation.

The Administration needs to develop and implement such a strategy as soon as possible. To assist it in this task, the Administration should immediately reconstitute the DMIA Task Force and instruct it to continue its work for 2004. In addition, the Task Force should be continued until 2008 to report to Congress on Administration efforts to develop and implement the new border strategy.